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CONTENTS

President: Mr. Lester B. PEARSON (Canada).

Adoption of the agenda: report of the General Committee (A/2225/Rev.1) (*continued*)

[Agenda item 7]

PART I (*continued*)

1. Mr. JOOSTE (Union of South Africa): In the General Committee [*79th meeting*], I placed on record my Government's protest against the inclusion in the agenda of the item entitled, "The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa" [*item 65 of the provisional agenda*]. In doing so, I made it clear that final decisions on the inclusion of items in the agenda rested with the Assembly, where all delegations were represented. I may explain that, not being a member of that committee, I could of course go no further. Moreover, the question of competence, which must necessarily also govern inclusion, is one which can be dealt with only by the Assembly and not by the General Committee.

2. I am therefore raising the matter here and I am doing so under rule 80 of our rules of procedure. As the Assembly is aware, that rule provides that "any motion calling for a decision on the competence of the General Assembly to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question". The proposal which is before the General Assembly is the recommendation of the General Committee that the item in question should be placed on the agenda. There is a prior question to be decided, and that is whether the Assembly under the Charter has the jurisdiction to consider the item at all.

3. It has been our invariable experience that when a matter of competence is discussed in any of the Main Committees of the General Assembly, the debates which ensue are confused by the introduction of emotional, sometimes acrimonious, and often hostile, elements which, we submit, render a clear-cut decision on competence well-nigh impossible. It has also been our experience that once a decision is taken in a committee on the question of competence, whether that decision is legally sound or not, reversal thereof usually proves to be impossible. We have on occasion, as will be recalled, endeavoured to seek redress in the Assembly, but have invariably been prevented from doing so by technicalities. It has been our experience that once a matter has been thrown open for discussion in a committee, attempts to secure a decision by the General Assembly in regard to the competence of the Organization, are, to say the least, usually fruitless.

4. The question of whether this Organization has the right, under the terms of the Charter, to interfere in the matter before us, is one of great importance to my country. I feel, therefore, that the matter of competence is one which should be dealt with in this Assembly at this stage, before it is thrown open for a debate which, if our experience serves as an indication, will inevitably be acrimonious and will only confuse the issue which I am raising.

5. Therefore, under the terms of rule 80 of our rules of procedure, I ask that the question of competence should be decided upon by the Assembly before voting on the recommendation of the General Committee that the item should be placed on the agenda of this session. I move that the Assembly should pass the following motion [*A/L.108*]:

> "Having regard to the provisions of Article 2, paragraph 7, of the Charter, the General Assembly decides that it is not competent to consider the item entitled, 'The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa'."

6. If the President will allow me to continue on the basis of that motion, I am prepared to state our case on the question of competence.

7. The PRESIDENT: The representative of the Union of South Africa may proceed on that basis.

8. Mr. JOOSTE (Union of South Africa): There is now before the General Assembly a motion under rule 80 challenging its competence to adopt the proposal of the General Committee for including in the agenda the item to which I have referred.

9. My reasons for challenging the competence of the General Assembly are based on the grounds that the Charter does not confer on the Organization the competence to deal in any way whatsoever with the subject matter of the item. My delegation asserts emphatically that the Organization is denied that competence by the clear injunctions contained in Article 2, paragraph 7. And in order to substantiate this assertion I should like, with your permission, to examine the meaning and the scope of that article. It is true, of course, that the South African delegation has done this on previous occasions. But the matter is of such importance and is of so serious a nature that it is obliged to do so once again.

10. Article 2, paragraph 7, of the Charter reads:

> "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."

You will recall that Chapter VII refers to "action with respect to threats to the peace, breaches of the peace and acts of aggression".

11. The first precept entrenched in Article 2 is that "the Organization is based on the principle of the sovereign equality of all its Members". If representatives will look at document 944, 1/1/34(1), on page 457 of volume 6 of the San Francisco documents,[1] they will observe that Committee I (1) at San Francisco, which drafted the article, stated expressly that it had decided to use the terminology, "sovereign equality", on the assumption that it included, *inter alia*, the following element: "that each State enjoys the right inherent in full sovereignty". This postulates due regard for the national sovereignties of all Member States and implies that the authority of the General Assembly cannot be extended beyond the clear terms of the Charter. This is particularly important considering that Article 2, paragraph 7, represents the only protection of smaller nations which do not have the advantage of the power of veto.

12. As the Assembly is aware, there is a fundamental rule in jurisprudence, the non-recognition of which would lead to international anarchy; and that is the *pacta sunt servanda*. An agreement necessarily defines rights and obligations as between parties. This principle is clearly reflected, with regard to the Charter, in the advisory opinion of the International Court of Justice given on 28 May 1948. In that opinion, the Court stated:

> "The political character of an organ cannot release it from the observance of the treaty provisions established by the Charter when they constitute limitations on its powers or criteria for its judgment. To ascertain whether an organ has freedom of choice for its decisions, reference must be made to the terms of its constitution."[2]

13. Because an agreement defines rights and obligations as between the parties, it is essential that the parties to it should be *ad idem* with respect to the definition of those rights and obligations. As interpretations of definitions may differ, it is common international practice to record, during the negotiations preceding an agreement, the interpretation which a particular party will give to the definition to be accepted. The records of the negotiations at San Francisco abound in statements by Members of the United Nations setting forth their interpretation of clauses. Committees and eventually commissions established at San Francisco recorded such interpretations.

14. Paragraph 1 of Article 110 of the Charter provides that the Charter shall be ratified by the signatory States. Member States which ratified the Charter must be taken to have done so after serious consideration of the nature and scope of the rights and obligations accepted upon signature. No State would have become, or could be expected to become, a party to the Charter without being satisfied as to the meaning and scope of the rights and obligations contained therein. Articles 108 and 109 of the Charter provide for amendment and review. The mere fact of such provisions is recognition that the parties accepted the terms of the Charter subject to an agreed interpretation. There can, therefore, be no legal basis for an assumption that the Charter may be amended by interpretation, whether by one party or by a majority of parties. It contains no provision to that effect. It can be amended or reviewed only under the terms of Articles 108 and 109. It is for these reasons that it will be necessary for me to examine closely the meaning and scope of the pertinent articles of the Charter and of the interpretation given to such articles by the founders of our Organization.

15. Permit me to examine the phraseology of Article 2, paragraph 7. The initial phrase reads: "Nothing contained in the present Charter shall authorize the United Nations to intervene...". The word "nothing" is clear and unequivocal. It means simply that nothing in the Charter, no provision therein, be it interpreted as it may, shall authorize intervention by the United Nations in the domestic affairs of a Member State. No possible interpretation of any provision of the Charter can serve to alter the meaning of the word "nothing". After all, an interpretation of a provision is merely the provision itself as interpreted. And as the United Nations has no greater competence than that conferred upon it by the Charter, it is perfectly clear that the United Nations is not competent to interpret any article of the Charter in such a way as to authorize intervention when the Charter itself categorically states that nothing contained in it shall authorize intervention.

16. It is true that there is an exception to the principle of non-intervention laid down in Article 2, paragraph 7. That exception is in respect of the application of enforcement measures under Chapter VII. The exception is expressly stated in Article 2, paragraph 7, itself. No other exceptions are mentioned in the rest of the Charter, nor can they be inferred from any of its provisions. The universally accepted maxim that *expressio unius est exclusio alterius* must, therefore, necessarily be of application. In plain language, had there been any intention to allow exceptions other than that relating to the application of enforcement measures

[1] See *Documents of the United Nations Conference on International Organization, San Francisco, 1945*: United Nations Information Organizations, London, New York, 1945.

[2] See *Admission of a State to the United Nations (Charter, Article 4), Advisory Opinion: I.C.J. Reports 1948*, p. 64.

under Chapter VII, that intention would have been clearly expressed or would have been readily ascertainable as a necessary inference from the terms of the Charter. The provisions of Article 2, paragraph 7, were therefore clearly intended to have an overriding effect in relation to the other provisions of the Charter, subject only to the exception relating to enforcement measures.

17. If we consider the documents of San Francisco, it will be observed that the founders of the United Nations clearly intended Article 2, paragraph 7, to have that overriding effect.

18. Mr. Evatt of Australia at that conference resisted a proposal that a "clear violation of essential liberties and of human rights"[3] should be regarded as sufficient justification for intervention. He reminded the great Powers that they had the protection of the veto. He continued his argument by saying: "Every country represented in this conference has its own internal problems, its own vital spheres of domestic policy, in which it cannot, without forfeiting its very existence as a State, permit external interference."[4]

19. The representatives of the United Kingdom agreed that the principle of domestic jurisdiction should not be infringed until and unless a question in dispute had become the cause of such serious difference that it led to a threat of war. I submit that it is ridiculous to contend, as it is contended in the explanatory memorandum [*A/2183*] of the sponsors of the item under consideration, that conditions in the Union of South Africa constitute a threat of war or a threat to the peace.

20. Mr. Dulles, representative of the United States, stated that Article 2, paragraph 7, "presents a new and basic principle governing the entire Organization, namely, that the Organization in none of its branches, in none of its organs, shall intervene in what is essentially the domestic life of one of its Member States". He pointed out that there was an important difference between the functions of the League of Nations and those of the United Nations. The latter would deal not only with the settlement of international disputes, but also with the deeper underlying causes of discord, with the economic and social problems of the world, and so forth. In that respect it also went further than the Dumbarton Oaks proposals, and it was therefore felt that, as a result of the extension of the scope of activity of the United Nations, there had to be some counterbalancing check on the possibility that this wide field of activity might infringe on the domestic rights of individual States. For that reason Article 2, paragraph 7, had been taken out of Chapter VIII and put in Chapter II as one of the corner-stones of the Charter. He continued:

> "We face in a way which is totally different from the League or even the original Dumbarton Oaks plan, the problem of what will be the relationship of this new Organization to the Member States... and so it is we lay down here a broad directive, a general principle. We have general principles which tell Members that they must refrain from doing certain things, and now we have a principle which says to the world organization: You, too, must refrain from doing certain things. You must refrain from intervening in the domestic affairs of any Member States."

21. In 1948, the representative of India suggested[5] that the word "intervention" was used in a specialized international sense, namely, in the sense of dictatorial interference, and that the passing of resolutions would not constitute the type of intervention envisaged by Article 2, paragraph 7.

22. This argument was ingenious, but entirely misleading. Dictatorial interference is, under general international law, an illegal intervention by a State in the affairs of another State affecting the latter's political independence or territorial integrity. This is the sort of intervention which is prohibited by paragraph 4 of Article 2. The word "intervention" is not specifically used in that paragraph, but by necessary implication the obligation contained therein is the obligation not to intervene, that is to say, to refrain from dictatorial interference or intervention in the technical sense. In paragraph 7 of Article 2, however, the word "intervene" bears its ordinary dictionary meaning and includes interference. There is no indication that it must be understood in the narrow sense.

23. Bearing in mind the different functions and powers of the General Assembly and the Security Council, it is clear that the latter is empowered to interfere dictatorially in certain circumstances, and the exception made in the second part of paragraph 7 admits quite clearly that the Security Council may so intervene. But the General Assembly has no power to intervene in the technical sense, that is to say, to interfere dictatorially. It may only make recommendations and discuss questions or matters within the scope of the Charter. The word "intervene", in relation to the General Assembly, can, therefore, only have the wider meaning of "interference".

24. It must be noted that the prohibition in paragraph 7 of Article 2 does not apply only in respect of the activities of the Security Council, but in respect of the activities of the United Nations, including, therefore, the General Assembly. All activities of the General Assembly in relation to matters which are essentially within the domestic jurisdiction of a Member State are, therefore, forbidden. Activities of the General Assembly are confined to the making of recommendations, the passing of resolutions and the discussion of matters falling within the scope of the Charter. They are all provided for in the Charter as competent activities of the General Assembly. But nothing in the Charter shall authorize the General Assembly, as an organ of the United Nations, to engage in activities amounting to intervention in matters of essentially domestic concern. Intervention must, therefore, be understood to apply to all activities of the General Assembly, clearly including the making of recommendations, the passing of resolutions and the discussion of matters within the scope of the Charter. If any of these activities is of such a nature as to amount to an interference in the essentially domestic affairs of a Member State, it is forbidden by Article 2, paragraph 7, of the Charter. Discussion is one of those activities, but if discussion amounts to interference in matters of

[3] See document 2, G/7 (o), of the San Francisco Conference.

[4] See document 969, I/1/39, of the San Francisco Conference.

[5] See *Official Records of the General Assembly, Third Session, Part I, Plenary Meetings*, p. 226.

essentially domestic concern, it is forbidden, and the same applies to all other activities of the General Assembly.

25. Experience has abundantly proved that partisan discussions in the United Nations of a domestic problem inevitably have local political repercussions, which lend encouragement to malcontents and dissidents, who are to be found in every country, whether it be badly or well governed. Such discussions stimulate intransigeance and stultify genuine efforts at finding solutions to problems which often involve the very existence of the State concerned.

26. When the question of Hyderabad came to be considered in the Security Council—this was between 19 May and 24 May 1949—the Indian representative wrote a letter to the Council [*S/1324*] in which he contended that there never had been any dispute or situation in Hyderabad likely to endanger international peace and security, or lead to international friction. He also stated in his letter that all matters relating to Hyderabad were then—that is, at the time he wrote—regularly dealt with by the Government of India as matters of domestic jurisdiction. He suggested that the periodic resuscitation of this subject in the Security Council served no useful purpose, but on the contrary might have the effect of inflaming passions in India and thus threatening its internal tranquillity. For those reasons he urged that the whole subject of Hyderabad should be removed from the agenda of the Security Council.

27. During the debate in the Security Council,[6] Sir Benegal Rau, the Indian representative, repeated his contention in almost the identical words he used in his letter. He said that these recurrent attempts to agitate the subject in the Security Council, which was thousands of miles away from the actual scene of events, could serve no useful purpose, but merely gave opportunities for statements which inflamed communal passions and disturbed India's internal tranquillity.

28. I entirely agree with the contention of the Indian representative, in so far as it referred to the principle that discussion in the United Nations of domestic problems gives rise to or creates opportunities for statements which can have serious domestic repercussions. In other respects, of course, there are obviously fundamental differences between the question of Hyderabad and the item now before the General Assembly.

29. Let us now return to the word "essentially" in the phrase "intervene in matters which are essentially within the domestic jurisdiction of any State". It has been suggested that the use of the word "essentially" was intended to have the effect of limiting the safeguard only to certain matters and also that its use, instead of the word "solely", which appeared in Article 15, paragraph 8, of the Covenant of the League of Nations and in chapter VIII, section A, paragraph 7, of the original Dumbarton Oaks draft, justifies a narrower meaning of intervention and shows an intent to increase the jurisdiction of the United Nations.

30. Evidence emerging from the San Francisco records proves that the word "essentially" was used in order to widen the scope of domestic jurisdiction and not to narrow it. When it was suggested that the word "solely", which was used in the Dumbarton Oaks draft, should be retained instead of the word "essentially", which appeared in the San Francisco draft, Mr. Dulles pointed out the inadvisability of the proposed amendment. He said:

> "That would again destroy the whole effect of the limitation, because what is there in the world today that is solely domestic?"

Mr. Evatt, referring to such matters as employment and other matters of domestic policy, said:

> "No one can say now that they are solely within the domestic jurisdiction, but Mr. Dulles says they are 'essentially' within the domestic jurisdiction, because there is as yet no authority which can intervene directly in the persons and things and subjects within any State or territory. The field of matters which are essentially within the domestic jurisdiction is really wider than those matters solely within the domestic jurisdiction."

31. This, I submit, disposes of the contention that the use of the word "essentially" restricts the meaning and scope of the article.

32. Let us now look a little closer at the meaning of the words "domestic jurisdiction". We have on previous occasions argued that, according to international law, the relationship between a State and its nationals, including the treatment of these nationals, is a matter of exclusive domestic jurisdiction which allows no interference either by another State or by any organization, subject only to any treaty obligations under the terms of which a State may have waived its inherent rights of sovereignty. This argument was advanced by us in reply to the contention that a matter which might be regarded as domestic by a particular State is nevertheless a matter to which the rules of international law apply, by virtue of the fact that matters of international concern transcend matters of national concern.

33. In this connexion, at San Francisco, Mr. Dulles, the United States representative, said:

> "Does it mean that if you have a treaty that deals with any subject, that such a treaty is international law and therefore that the fact that a subject is dealt with by treaty, means that it is no longer domestic? Does it mean, because the Charter is a treaty which makes international law, that every subject which it deals with is no longer a matter of domestic jurisdiction? If so, if that is the meaning of international law, then the whole purpose of the limitation"—that is, the limitation of Article 2 regarding domestic jurisdiction—"would be nullified because it would mean that all these matters we talk about, this whole social life of any State which is dealt with by this Charter would, under that interpretation of the international law phrase, be no longer a matter of domestic jurisdiction and therefore the whole effect of the limitation would be swept away."

34. I believe that I have succeeded in refreshing the memories of those who know the background and the real meaning of the Charter provisions. I believe that there can be no further doubt as to the correct interpretation of Article 2, paragraph 7, namely, that it explicitly denies the Assembly the right to deal in any way whatsoever with a matter which falls within the

[6] See *Official Records of the Security Council, Fourth Year, No. 28.*

domestic affairs of a Member, and therefore with the item now before us. A contrary view, however rationalized, would beyond all doubt be a denial of the explicit provisions of the Charter and would constitute a clear invasion of the rights which the Union of South Africa can claim, and does claim, under the Charter.

35. This brings me to the specific charges contained in the item before us, as explained in the memorandum submitted by the sponsoring governments. The Assembly will note that those responsible for the item are seeking to persuade the Organization to intervene in our affairs, despite Article 2, paragraph 7, of the Charter, on the twofold pretext that alleged events in the Union of South Africa constitute a threat to the peace, and that human rights are allegedly being violated in South Africa and that, by implication, the Organization has competence to deal with the matter.

36. I shall deal, first of all, with the second charge, that is, that the alleged violation of human rights in South Africa—which, incidentally, we categorically deny—gives the Organization the authority to deal with the matter.

37. It has been argued that Article 2, paragraph 7, does not apply when there is an alleged question of human rights. In reply to this argument I would say that if the founders of the United Nations had wished to exclude human rights from the sphere of domestic jurisdiction, they would have done so specifically, as they did in the case of enforcement measures under Chapter VII of the Charter. But to prove my point I may mention that there was a full discussion at San Francisco on the question of fundamental human rights in relation to Article 2, paragraph 7.

38. On 25 May 1945, Committee 3 of Commission II had before it the following draft article: "All Members pledge themselves to take separate and joint action and to co-operate with the Organization and with each other to achieve these purposes".[7] The words "these purposes" related to matters at present contained in Article 55 of the Charter, that is, higher standards of living, full employment, universal respect for human rights and fundamental freedoms, and so on. From the discussion which took place it is quite clear that there was a general fear that the article as worded might be interpreted as an exception to the operation of Article 2, paragraph 7, and that it might lead to an interference in the domestic affairs of Member States.

39. The United States representative, upon voicing misgivings, was reassured by the representative of Australia, on behalf of the Committee, in the following terms: "... behind the view of this Committee there is the intention that certain purposes and objectives will be regarded as important objectives to be achieved by Members of the Organization". The Australian representative proceeded: "... that means that we will co-operate with each other to try and achieve those objectives and we shall each within our own jurisdiction do our best to achieve those objectives in each of our own lands and each in our own way". "It"—that is, Article 56 of the Charter—"involves no interference whatsoever with the fundamental principle that matters of domestic jurisdiction are exclusively the concern of each Member State ... the methods"—for carrying out these objectives—"are, of course, another matter. They must be left to the action of each Member State, with exclusive jurisdiction over its own affairs, and on the international side, to action by agreement between States".

40. The representative of Australia further remarked that the draft as worded "leaves to each country full and complete and absolute discretion as to how to pursue such objectives", and that "the domestic jurisdiction of each country is protected under the proposed Charter by a special clause in Article 2". The United States representative, however, still had difficulties about the acceptance of the provision, namely, the pledge now contained in Article 56. He stated: "However much we intend to carry out within our own countries those great purposes"—those contained in Article 55—"we do not think that this sort of pledge is within the scope of the Charter, that is, the pledge as interpreted by the distinguished representative of Australia". Referring to the use of the words "separate action", in Article 56, which reads: "All Members pledge themselves to take joint and separate action... for the achievement of the purposes set forth in Article 55", he said: "It might be interpreted that you are pledging yourself to agree ... that the international organization could intervene in your domestic affairs on the ground that you have agreed by this statement that they are of international concern, no longer domestic". He sounded a warning that if the representatives attempted to convert this article, which enunciated certain purposes, into a convention by which the States would agree to take individual action on these problems, they would then "have gone away from the purpose for which the conference had met and destroyed the best hope of securing the adherence of all the nations to the Charter".

41. The representatives of Belgium, the United Kingdom, New Zealand and the Soviet Union all expressed themselves satisfied that the adoption of Articles 55 and 56 would not entail any interference with domestic affairs. The Soviet Union representative stated that he could not understand how it could even be suggested that the Australian proposal implied a right to intervene in the domestic affairs of a State. Later he proposed that the draft should be referred back to the sub-committee in view of certain differences of opinion which had arisen in regard to the use of the words "jointly and severally". The draft Article 56 came back with the wording as it now appears in the Charter: "All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55."

42. But to settle the meaning of this article once and for all, the report of Committee II/3 to the plenary meeting of the Conference included the following statement: "The members of Committee 3 of Commission II are in full agreement that nothing contained in Chapter IX can be construed as giving authority to the Organization to intervene in the domestic affairs of Member States."[8] The inclusion of the statement was agreed to unanimously by Commission II on 11 June

[7] See document 599, II/3/31, of the San Francisco Conference.

[8] See document 924, II/12, of the San Francisco Conference.

1945. It was also agreed to as it stood, by the plenary meeting.

43. If the United Nations were to be permitted to intervene in regard to sub-paragraph (*c*) of Article 55 —which concerns the promotion of human rights—on the ground that matters contained therein are not excluded by the provisions of Article 2, paragraph 7, then the General Assembly would be equally permitted to intervene in regard to matters set out in sub-paragraphs (*a*) and (*b*), that is, economic and social matters, higher standards of living, full employment, health legislation, etc. Is there any Member State in the United Nations which would be prepared to submit to such intervention? Almost the whole field of internal administration of the State is covered by social, economic, cultural and health activities. To state that the United Nations would have the right to intervene is to state a conclusion so far-reaching that it has merely to be stated to be rejected.

44. I have done no more than repeat the agreed interpretation of the human rights provisions of the Charter in relation to Article 2, paragraph 7. It was upon that agreed interpretation that the Charter was signed and subsequently ratified. It is fallacious to argue, therefore, that the prohibition of intervention contained in Article 2, paragraph 7, of the Charter does not apply when there is an alleged question of human rights.

45. Having now dealt with the charge on human rights, I should like to turn to the contention that what is allegedly taking place in South Africa constitutes a threat to international peace. You heard this charge repeated in the General Committee [*79th meeting*] by the representative of India in his brief but obviously hostile intervention—in which, I may add, he resorted to the most extravagant allegations as to conditions in my country. I fear we shall have to listen to more such allegations.

46. Let me say at once that the charge is completely unfounded and quite preposterous. To us, the conclusion is inescapable that to attempt to persuade the Organization to interfere in our domestic affairs on this pretext is no more than an effort to find some peg on which to hang an attack on the Government of the Union of South Africa. It is beyond all doubt an attempt to rationalize an unwarranted and an improper invasion of South Africa's most elementary rights as a sovereign, independent State.

47. It is difficult for me, as it must be for any objective observer familiar with conditions in my country, to see how, by any stretch of the imagination, conditions in South Africa can be regarded as a threat to international peace. Surely, there can be a threat to the peace only when the territorial integrity or political independence of another State is threatened. And can a State be accused of threatening the territorial integrity or political independence of another State because it makes laws, of a purely domestic character —whether or not such laws are conceived in all good faith, in the interests of good government, as is the case in South Africa?

48. No. No single other State can claim that its sovereignty and security are being threatened by South Africa. There is no aggression, nor is there any threat of aggression. The particular charges, unfounded as they are, brought against South Africa in the explanatory memorandum, all relate to matters which, in the life of every State, will be claimed to be of purely domestic concern, in which no outside interference could be tolerated. No one of these charges involves a matter which in any way affects the legitimate rights of another State. If they did, we should have to concede that such other State enjoyed legitimate rights and authority with regard to our internal affairs—and in that event we could no longer claim to be a sovereign, independent State.

49. No detailed analysis is necessary of the charges enumerated in the memorandum in order to prove my point. I may, however, in order to demonstrate the hollowness of the charge—and without prejudice to South Africa's legal position—deal briefly with one or two of the charges enumerated in the memorandum put forward by India and those who support it.

50. In the first place, it is claimed [*A/2183*] that, under the Group Areas Act, "non-whites are compelled to abandon their present lands and premises and to move to new and usually inferior reserved areas without compensation or provisional alternative accommodation". This is not so. I do not, however, have to disprove the charge, I need but refer to the Act itself, which contains the facts and which, despite our protests, was circulated in this Organization in 1950. However, the correctness or incorrectness of the allegation is not the point. The point is, in what way does that Act create a threat to international peace? I assert, in no way whatsoever.

51. I also assert that the charge that the exclusion of non-whites from combat service in the South African armed forces threatens international peace cannot be entertained seriously. It is a recognized fact in international law that any action which a sovereign State considers necessary for the protection of its essential security interests is the sole concern of the individual State. The only action which it may not take is that specifically defined in international instruments to which it is a party—and there is no instrument under the terms of which my Government can be obliged to vary its policy with regard to its armed forces. As we all know, every single State has its own conditions of recruitment for its armed services. In this connexion I might usefully refer the Assembly to the fact that under the League of Nations Mandates System, mandatory States were specifically precluded from recruiting into their armed forces the indigenous non-white populations of their mandated territories. That provision in the mandates was never challenged on the ground that it constituted a form of discrimination which threatened international peace. I therefore repeat that the exclusion of non-whites from combat service in the South African armed forces cannot be regarded, in any way whatsoever, as a threat to international peace.

52. Then it is also alleged, among other things, that the education of non-whites and their housing and living conditions are deplorable.

53. It is true, of course, that with regard to housing conditions, for instance, we have not been able to do everything we would wish to do—certainly not everything which we hope and intend to do. But we should be quite prepared, if that were proper, to compare the living conditions of those people with the living

conditions existing for millions in other parts of the world. A reference to the amount of money which we are spending in this connexion and the programmes which have been evolved in South Africa may well surprise many people who have been misled by the distortions of those who are seeking to discredit us in the eyes of the world.

54. The charge regarding the education of non-whites is equally misleading. One need only remember that, despite the relatively limited resources of the Government of South Africa, over a million non-white children attend our free schools, as against 450,000 European children. The costs involved to my Government with regard to the education of non-whites should, therefore, be obvious to all who are prepared to consider these facts objectively.

55. All this, important as it is, does not, however, affect the real point at issue, namely, how these matters can threaten world peace. Surely to claim that they do is to resort to the most improper form of distortion.

56. It is alleged, also, that the Suppression of Communism Act of my country is being used to suppress democratic movements. I strongly deny this, and I submit that the figures refute the charge, as action under the Act has been taken against only twenty persons. In any case, it is my Government's firm intention to continue taking vigorous action against subversive elements within the borders of South Africa. We are not the only people who do this, and I am sure that the action taken by us is no harsher than that legitimately taken in a number of other countries.

57. I believe I need go no further with regard to these charges. They are set out in the memorandum, and if representatives will carefully read them they will inevitably be forced to the conclusion that no single one of them can be regarded as a threat to the peace. They will also be forced to the conclusion that each and every one of them deals with a matter which calls exclusively, as I have said, within the domestic jurisdiction of the Union of South Africa.

58. In passing, may I refer the Assembly to one more statement contained in the memorandum. That statement deals with the fact that a number of people have been arrested in South Africa because they have launched "a completely non-violent resistance movement". This refers, of course, to cases where people have disobeyed the laws of South Africa and, I may add, at the instigation of agitators. In how many countries, may I ask, would those who deliberately violate the laws of the land escape punishment? May I say here that I believe that there are countries in which their punishment would have been extreme. There are countries in which they might well have paid with their lives.

59. No, I can but repeat that this approach is nothing more than an attempt to justify an unwarranted and an improper invasion of South Africa's most elementary rights as a sovereign, independent State. We all know that this pretext has been used in the past to cloak the sinister designs of those who sought to enforce their will upon others. History affords us many examples, and we need only consider them in order to appreciate the dangers inherent in this approach.

60. Considering these facts, and considering also conditions in other parts of the world which unquestionably constitute a grave threat to world peace, we find it difficult to appreciate why the Union of South Africa, which for well-nigh two years has been sacrificing lives and resources to repel aggression—why South Africa should be singled out for this mischievous charge.

61. I regret the length of my statement, and I thank the Assembly for having listened to me with patience. I have, however, been obliged to say what I have said.

62. I have argued—and I believe that I have shown on the basis of legal facts, as well as on the interpretations of the texts of the Charter to be found in the records of San Francisco—that the United Nations is debarred from even discussing or passing recommendations on the matter. I have dealt with the question of the alleged violation of human rights and have shown that Articles 55 and 56 of the Charter cannot possibly constitute an exception to the operation of the rule contained in Article 2, paragraph 7; finally I have dealt with the alleged threat to the peace resulting from the policies of my Government, and trust that I have convinced the Assembly that by no stretch of the imagination can the allegation that a threat to the peace exists be substantiated.

63. In the light of what I believe to be the conclusive nature of my arguments, I submit that if the Assembly were to decide that the Organization can deal with the item in any way whatever, it would countenance a gross usurpation of authority which the Charter expressly excludes and which the founders of the Charter deliberately intended to be excluded.

64. If, therefore, despite the explicit provisions of Article 2, paragraph 7, the Assembly were to accept the item for consideration, it would open the door to ever-continuing interference in the domestic policies of Member States in every conceivable sphere of domestic activity—not only in South Africa, but in all other States. If national sovereignty, therefore, is not to become a meaningless concept, States, as is their explicit right under the second part of Article 2, paragraph 7, must necessarily resist attempts to interfere in their domestic affairs.

65. The Organization then, whose purpose is maintenance of peace and the promotion of friendly relations, will by such action itself be responsible for the creation of new tensions and the undermining of its own international prestige. I submit that each time the Assembly violates its own constitution or acts on authority which does not rest four-square on the Charter, it must inevitably bring the United Nations a step closer to its own disintegration.

66. It is for these reasons that I request the Assembly to find that the United Nations is not competent to deal with the substance of the item now before us in any way whatsoever. It is essential that we should have a clear-cut and unambiguous decision on this point.

67. With the permission of the President I should like to reserve my right to reply, if that should be necessary.

68. The PRESIDENT: Before calling on the next speaker, I should point out that as we are now dealing with an agenda item, rule 23 would apply. That means that three speakers may be heard on one side and three speakers on the other.

69. Mrs. PANDIT (India): Yesterday [*380th meeting*] the General Assembly decided to include as item 22 in the agenda the item relating to the treatment of people of Indian origin in the Union of South Africa. In doing so, the Assembly, in its wisdom, decided that the racial policy pursued in the Union of South Africa against a section of its population was a matter which it could properly and legitimately include in its agenda and debate.

70. The present issue falls in the same category and calls for no new decision or principle on the issue of domestic jurisdiction. In 1950, the General Assembly adopted a resolution [*395 (V)*] in which it stated:

"...

"*Having in mind* its resolution 103 (I) of 19 November 1946 against racial persecution and discrimination, and its resolution 217 (III) dated 10 December 1948 relating to the Universal Declaration of Human Rights,

"*Considering* that a policy of 'racial segregation' (*apartheid*) is necessarily based on doctrines of racial discrimination..."

Again, last year, the Assembly reaffirmed its position in a further resolution [*511 (VI)*], part of which reads:

"...

"*Having in mind* its resolution 103 (I) of 19 November 1946 against racial persecution and discrimination, and its resolution 217 (III) of 10 December 1948 relating to the Universal Declaration of Human Rights,

"*Considering* that a policy of 'racial segregation' (*apartheid*) is necessarily based on doctrines of racial discrimination..."

71. It will therefore be easily appreciated that the question of domestic jurisdiction cannot be argued as a valid objection to the inclusion of the item which we request the Assembly to place once more on its agenda. To entertain such an objection would be tantamount to reversing the decision of the Assembly last year on the issue of the concern and competence of the Assembly in considering policies and problems of racial discrimination in Member States.

72. I should also like to point out that at this stage we are not entering into or arguing the merits of the problem to which this item refers, but merely asking that the General Assembly should debate it.

73. Both the Charter and the Universal Declaration of Human Rights are applicable to the populations which, we allege, are affected by these policies. In resolving to place this issue on the agenda, the Assembly, therefore, only reaffirms its repeated decision and its declared policy.

74. May I say that I regret that the representative of the Union of South Africa appears to have entered into the merits of the issues covered by the item and has referred to certain matters which, he alleges, exist in my country. He has also quoted Article 2, paragraph 7, of the Charter, a fact to which I should like to take exception. Article 2, paragraph 7, can apply only to the terms of resolutions which may contravene it. The issue here is one of admitting an item to debate. In accordance with the practice of the Assembly, and with the President's own ruling, I should like to say that I decline to be drawn at this stage into a debate on the merits of questions which are not relevant to the simple issue that is before us, which is the admissibility of this item, and I submit that that does not appear to me to have been in order. Once this item is admitted, it will be open to the representative of the Union of South Africa, as well as to all other representatives, to debate the merits of the case as fully as can be.

75. Perhaps I could make a very brief reference to clear up the matter referred to. In General Assembly resolution 103 (I), adopted unanimously on 19 November 1946, it was declared that in the higher interests of humanity it was necessary to put an immediate end to religious and racial discrimination and persecution, and all governments were called upon to conform both to the letter and to the spirit of the Charter and to take the most prompt and energetic steps to that end. In the course of the discussion of that resolution in the Assembly the view was expressed that the question of cessation of persecution and discrimination was completely in conformity with the purposes and principles of the Charter. At that time the hope was expressed that the Organization would have an opportunity to propose more concrete measures, especially when concrete questions were raised regarding the question of domestic jurisdiction.

76. Again, at the fifth session, the issue of competence was resolved by 35 votes to 3, with 17 abstentions. I shall read the resolution:

"*The* Ad Hoc *Political Committee,*

"*In view of the fact* that the question of competence regarding the item on the agenda relative to the treatment of people of Indian origin in the Union of South Africa has been considered,

"*In view of the discussion* on this subject and the proposals submitted,

"*Decides* that it is competent to consider and vote on such proposals as have been submitted."[9]

77. I therefore request that this item should be admitted to inclusion in the agenda.

78. The PRESIDENT: Continuing this discussion of admissibility and competence, I call upon the representative of the United Kingdom.

79. Sir Gladwyn JEBB (United Kingdom): I have been asked by the leader of my delegation to explain our general attitude towards the competence of the Assembly to consider the question now before us because I was—in the distant and, shall I say, rather more hopeful days of 1944 and 1945—closely connected with the preparation and drafting of the Charter, and may, therefore, be thought perhaps to have some special knowledge of the circumstances surrounding the negotiation and meaning of what is now Article 2, paragraph 7, of the Charter, dealing, as we know, with the question of domestic jurisdiction.

80. I welcome this opportunity, more especially since it cannot, I hope, be believed that I am myself in any way unmindful of the great possibilities of our Organization for the preservation of world peace, whether by the exercise of conciliation or by the use of force

[9] See *Official Records of the General Assembly, Fifth Session,* Ad Hoc *Political Committee,* 46th meeting, para. 110.

in the resistance to aggression, should such, unfortunately, be necessary.

81. Nor am I, myself, conscious of possessing any racial feeling. Indeed, nothing that I say today can be interpreted as meaning that our devotion to the cause of the gradual elimination of all forms of racial and, for that matter, of religious discrimination throughout the world, does not remain as constant as it has always been. And, as the acting first servant of the United Nations for a period, I gave, I trust, some proof of my own devotion to our general cause.

82. But this is the very reason why I really do feel impelled to express genuine concern at the path which the United Nations now seems to be taking and at the great dangers which beset us if we turn an Organization whose main purpose is to achieve a state in which Members can live together in peace, into a sort of crusade of some Members against others or, conceivably, of all against all. I know, of course, that this is not something which any sane person can consciously desire, but it is, nevertheless, a situation which, unless we are very careful, may quite well arise.

83. It is quite true that, in our respective organized national societies, we are all, perforce, to some extent at any rate, our brothers' keepers, but in the present state of international society it is simply not possible for any particular philosophy or morality to be imposed by one group of States on another State or group of States, however passionately such ideas may be held by the majority. In the international society we may all of us, to some extent, be said to be living in glass houses, and it is only if we possessed one central world government that we should be able to indulge without disaster in the exercise of throwing stones.

84. With this brief introduction, may I say quite bluntly that my Government entertains no doubt at all that, quite irrespective of the merits—I repeat, quite irrespective of the merits, on which, in any case, I have no intention whatever of dwelling in my speech today, since it would be against our regulations to do so—this particular item on the internal racial policy of the Government of the Union of South Africa is one which the Assembly is not competent to consider and which it ought not to discuss. We hold this for reasons which are both technical and general.

85. About the technical aspect I do not propose, at this stage at any rate, to say very much. It is, of course, easy for those who consider that the General Assembly has competence to discuss this item to point to various articles of the Charter, and notably Articles 10 and 11, of course—and, indeed, to all the articles relating to human rights—which, however, are only binding on Members in so far as they have been specifically defined and accepted. For the language of all these articles is so wide and so general that it would appear to enable the General Assembly at least to discuss almost any question whatever. And of course it may as well be admitted from the start that nothing can, in practice, prevent any representative from alluding to any subject he chooses during the general debate, however regrettable other members may think his allusion is. But in our view, these provisions, of whatever character, must all be read subject to the provisions of Article 2, paragraph 7, which was, after long debate in San Francisco, placed in the forefront of the Charter and which, in fact, governs the whole of its application. This provision states, in the most explicit terms, as we know, that "nothing"—and I repeat the word "nothing"—"in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State". And I should only add that the one limiting provision in the article itself refers to possible action by the Security Council and is, therefore, in no way relevant to the powers and capabilities of the General Assembly.

86. This provision which I have just quoted clearly has no meaning unless the effect of it is that when a matter is, in fact, essentially of domestic jurisdiction, its formal consideration by the United Nations is excluded, even in those cases where the subject is one which could otherwise be raised under some provision of the Charter.

87. For my part, I can think of nothing more clearly and obviously a matter of a country's domestic jurisdiction than the relationship which, as a matter of State, it has rightly or wrongly decided to maintain between persons of varying races living within its own borders. If individual States Members of the United Nations disapprove of the policy being followed in this respect by one of their own number they are, of course, fully entitled to say so and to pursue the matter by any legitimate means which is open to them. But that is not in itself a fact which can declare the competence of the United Nations as an Organization to consider this matter.

88. As an Organization, the United Nations may consider only issues which it is competent to consider, and its competence is, and must be, governed by the Charter and by nothing else. Just as it is possible to bring almost any question under some article or other of the Charter, and thereby presumably to nullify completely both the intention and the effect of Article 2, paragraph 7, so it is equally easy to say that a matter involves peace and security, or that it affects good relations between countries, or that it tends to create international tension. But a question which is essentially within the domestic jurisdiction of a State does not cease to be so merely because it may create tension or affect relations within the State or with some other State or States. Here, again, we have an argument put forward by those who consider that the General Assembly is competent to discuss this issue which, if it were valid, would have the effect—and the obvious effect, I suggest—of completely nullifying the provisions of Article 2, paragraph 7, for it is indeed obvious—at any rate it is obvious to us—that almost any question of any importance is capable of affecting relations between countries or creating some tension, and it is, of course, always easy to allege that peace and security are affected, whether they are really affected or not.

89. There are a great many things which are of international concern but which are nevertheless clearly, we think, matters of domestic jurisdiction only and which must necessarily remain so. It would be very easy to give quite a number of examples of the kind of matter I am referring to, but I would only mention in a general way such matters as tariff and quota policies and, more especially perhaps, immigration policies. Practically everything that a country does is liable to have some kind of repercussions outside its borders. If this

were sufficient to take the matter out of the sphere of domestic jurisdiction, there would obviously be no limit at all to the degree of intervention which the United Nations could exercise in regard to the domestic and internal affairs of its Members.

90. So far as peace and security are concerned, my Government, at any rate, is firmly of the opinion that only a very real and definite threat of actual disturbance of international peace could justify intervention by the Organization. In other words, the actual prospect of war alone could justify intervention by the Organization in the affairs of a Member State. We do not think that allegations—whether artificial or not, but allegations—of a threat to the peace based on purely local disturbances, if such there be, can raise the issue of peace and security in any genuine way at all.

91. As regards what exactly constitutes intervention, I would only say at this point that it is the opinion of Her Majesty's Government that, as a broad general rule, the General Assembly must be said to intervene in the internal affairs of a Member State when it not only places an item concerning those affairs on the agenda, but also proceeds to consider and discuss it and, whether by means of a formal draft resolution or otherwise, attempts to indicate to the Member State concerned what policy it ought to pursue. If such action as that does not constitute intervention, then it is indeed difficult to know what the term can possibly mean.

92. So much, therefore, for the more technical aspect of the matter, on which I must reserve the right of my delegation to restate and elaborate, if necessary, later, though I hope it will not be necessary.

93. I should now, if I may, like to draw the attention of the General Assembly to certain considerations of a more general character. There has for some time, we think, been an increase in the tendency on the part of the General Assembly to discuss the internal affairs of Member States and to consider questions which involve such affairs. The present item is not the only item of this character that has been placed on the provisional agenda of this year's session of the General Assembly. I really wonder whether the General Assembly has given sufficient consideration to the question of where this tendency is likely to lead us if it is pursued. There can be very little doubt that it is gradually producing a complete change in the basis on which the United Nations was originally founded and on which a great many Member States joined it.

94. It would certainly never have been possible to constitute the Organization at all if it had been supposed at the time that it would be turned into an instrument for intervention in the internal affairs of its Members. Not only was such an idea never entertained by those who drafted the Charter—which is quite clear from the records of San Francisco—but they would have entirely rejected it, and indeed, they included Article 2, paragraph 7, expressly for that reason. It is most significant that, in the original Dumbarton Oaks project, a similar provision figured in, and applied solely to, the chapter on the pacific settlement of disputes—but it was deliberately removed from that chapter and placed at the beginning of the Charter, and the words "Nothing in the present Charter..." were deliberately used, in order that this provision should govern the whole Charter and all the activities of the United Nations. If nothing else can make this clear, it would certainly emerge from the speech made on behalf of the four sponsoring Powers by no less an authority than Mr. John Foster Dulles at the Conference of San Francisco itself. It was indeed realized that, without this safeguard, the provisions of the Charter might not only lead to attempts to intervene in the purely domestic concerns of Member States but, by the very fact of so doing, endanger the whole stability of the Organization.

95. Perhaps I might just add that, in our view, quite as much friction and contention are likely to be caused by attempts on the part of the Organization to interfere in the internal affairs of Members as by the policies on which such intervention is based. We should really ask ourselves how far recent tendencies of the Organization to intervene, or to attempt to intervene, in matters of domestic jurisdiction have in fact increased good relations among Member States or have in fact allayed international tension and friction. There is certainly a case to be made out—that is all I would say, that there is certainly a case to be made out—for holding that these attempts have only increased friction and created tensions which would not otherwise have existed.

96. For all these reasons and, as I said at the outset, without any regard for the merits of the question which it is sought to debate in the General Assembly, I would urge my fellow representatives to think many times before they actually embark on such a debate. It is my own perfectly genuine belief that a decision to do this would not only be contrary both to the letter and to the spirit of the Charter which binds—or should bind—us all together, but would also, in practice, have the very reverse of the effect intended by the sponsors of this proposal.

97. Mr. SANTA CRUZ (Chile) (*translated from Spanish*): I think the discussion is a little premature. Actually, we are supposed to be discussing whether this item should be included in the agenda or not, but just now the question of competence was clearly raised. And since the question has been raised in this way, I feel obliged to attempt to refute the arguments of the representatives of the Union of South Africa and the United Kingdom.

98. The argument advanced by the representatives of those two countries is this, that under Article 2, paragraph 7, of the Charter, this matter of the infringement of fundamental human rights is exclusively within the domestic jurisdiction of States; and a number of reasons have been advanced to support this affirmation. The key to the question, therefore, is whether this matter of the infringement of human rights is really within the exclusive competence of States or whether it is a matter of international competence also.

99. We have no text defining what is meant by a question falling exclusively within the jurisdiction of States, but of one thing I am convinced: the State concerned cannot itself be the sole judge of whether a given situation is within its exclusive jurisdiction, for that would enable any State to evade the fulfilment of its international obligations. We therefore have to try to find other methods of deciding which questions are exclusively within the national competence of States and which are not.

100. Jurists have tried unsuccessfully to define these matters. At one time, lists were compiled of the questions that were to be regarded as being within the exclusive jurisdiction of States, but events have rendered those lists obsolete, and many of the matters contained in them have come to form part of international agreements, of treaties, and are therefore a matter of international law. It is not possible, therefore, to say precisely what matters are within the exclusive jurisdiction of States. On the other hand, it is possible to know when a matter is not within the exclusive jurisdiction of States; it is when the matter in question is the subject of an international agreement, whether bilateral or multilateral. The international law created by conventions and agreements among countries removes a number of questions from the exclusive competence of States. In the past, the slave trade, the white slave traffic and the traffic in narcotic drugs were regarded as questions falling exclusively within the domestic jurisdiction of States, but agreements of an international character have brought these matters within the competence of international law.

101. Now, since the adoption of the Charter, all fundamental human rights have formed part of international law, since they are included in that multilateral treaty, the Charter. For the idea of respect for fundamental rights and freedoms and the idea of non-discrimination on grounds of race, sex or religion, are to be found in the Charter more than any other; they are to be found in six separate places, beginning with the Preamble and Article 1, which lays down the purposes and principles of the Charter. Article 55, in turn, provides that "the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". Article 56 adds that "all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55".

102. The representative of the Union of South Africa referred to a decision of Committee II of the San Francisco Conference which, according to him, defines the scope of Article 56. In the first place, I do not think that a mere decision of the Committee which drafted these provisions can impose upon the Organization an eternal obligation with regard to the interpretation of one of the most important provisions of the Charter. Furthermore, when the decision states that this provision cannot be interpreted as authorizing interference in the internal affairs of States, it means that the United Nations cannot oblige a State to take steps, either separately or jointly, to achieve the purposes of Article 55 of the Charter. It cannot, however, have referred to the powers of the Assembly to discuss the conduct of a State in relation to fundamental human rights and the other obligations which flow from Articles 55 and 56 and to make recommendations thereon, for that would have been tantamount to ignoring the express provisions of Articles 10 and 14 of the Charter. Article 10 provides that "the General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12", that is to say, except for the matters dealt with by the Security Council, "may make recommendations to the Members of the United Nations . . . ". And Article 14 reads: "Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations". One of the chief purposes and principles of the United Nations is respect for fundamental human rights and individual freedoms, without discrimination.

103. This interpretation, furthermore, is the one which the General Assembly and the other organs of the United Nations have consistently accepted. The General Assembly and the Economic and Social Council have on many occasions discussed infringements of fundamental human rights affecting countries in all geographical areas and in all political sectors, including the Union of South Africa. They have dealt with the infringements resulting from the existence of slavery in some countries, with charges of forced labour, with racial discrimination, with infringement of trade union rights. And they have made recommendations to Member States addressed, it is true, not to individual countries but to groups of countries—which is the same thing—regarding the national measures which might be adopted to ensure full employment or raise the standard of living of the people of those countries or throughout the world.

104. I must admit that the representative of the Union of South Africa has been quite consistent. From 1946 until the present day, he has interpreted the provisions of Article 2, paragraph 7, of the Charter in the manner he has just described to us. Moreover, when the Universal Declaration of Human Rights was discussed in Paris in 1948, the delegation of the Union of South Africa openly opposed articles 1 and 2, which proclaimed the equality of all men without distinction as to race, sex, religion or political opinion.

105. Without wishing to be unfriendly towards the representative of the United Kingdom, I feel obliged to point out the great contradiction between the attitude of his delegation in this case and its attitude in previous cases. He has told us that his delegation is concerned at the tendency it observes in the Assembly to interfere in the domestic affairs of States by discussing infringements of fundamental human rights, which, in his opinion, fall exclusively within the domestic jurisdiction of States.

106. In 1949, however, the Assembly recommended by more than 50 votes that the Soviet Union should put an end to a situation which involved an infringement of fundamental human rights in respect of the right of married women to leave the country with their husbands.[10] The text of that resolution had been submitted by my country and was supported by the United Kingdom delegation before the Assembly. The United Kingdom was at the head of the movement initiated by the Economic and Social Council to discuss the question of forced labour in a number of countries. Another delegation, that of Belgium, is the one which proposed in the Assembly and in the Council an investigation of survivals of slavery throughout the world and this investigation is in process with the agreement

[10] *Ibid., Third Session, Part II, Plenary Meetings,* 197th meeting.

of the United Kingdom delegation. The Soviet Union itself, for its part, has supported charges of infringement of trade union rights against other countries, including my own.

107. I urge representatives to be consistent in their attitudes towards fundamental questions of principle. That is the only way to keep the respect of world public opinion. We cannot adopt one standard in relation to charges against some countries and another standard in relation to charges against others, according to the friendship we feel towards them.

108. My delegation wished to speak on this matter of competence, first, because it thinks it is entitled to do so, considering that, ever since 1946, and even in cases in which my own country was involved, it has maintained that the Assembly has competence in cases of infringement of fundamental human rights, and, secondly, because we hold and have always repeated the conviction that universal respect for fundamental human rights is one of the essential bases of peace.

109. Mr. CASEY (Australia): As I understand it, we are discussing the question, raised by the Union of South Africa, as to whether or not this item should take its place on our agenda for discussion. That delegation bases itself on the question of the General Assembly's competence to discuss a matter of this sort, for the reasons that it has very eloquently given. I believe that we now have to face up to this question of competence, from which flows our ability to discuss this matter. Like others before me, I shall divorce myself entirely from the merits of this case. We are discussing competence and, flowing from that, our ability to discuss this matter. I should like to treat it in simple and very short terms.

110. First of all, the question is whether this matter should be discussed and not necessarily whether we should adopt any resolutions about it. I am led to quote what I believe is a document of authority, arising from the Indian delegation, as to the wording of the proposal which that delegation would move if this matter were to find its place upon our agenda. The Assembly would be called upon to take note of this and that, to express strong disapproval of this and that, and then to recommend to the Government of the Union of South Africa that, in the interest of peace, its racial policies should be revised in accordance with the principles of the Charter; in other words, South Africa would be admonished to amend its present law at the dictate of the United Nations General Assembly.

111. I should like to address myself quite simply to this matter. Apart from whether or not we are here to adopt a resolution on this subject, I believe that the mere discussion of it would do very great harm, as indeed I believe it has done great harm when the matter has arisen here at previous times. Things would inevitably be said in the course of the discussion that would do harm. I believe that we should address ourselves in the first place to whether a discussion on this matter, apart from the question of competence, would be good or bad. What would be achieved by it? I believe that no good could come of it. I do not believe that the Government of the Union of South Africa would be moved to amend its legislation, things being as they are, by a resolution of this body. On the other hand, bad things might well result. I am not at all sure of them myself. I hope very much that the United Nations is sufficiently well enshrined in the hearts and minds of the governments and peoples of all countries to survive indefinitely. I hope for that, and I believe that. But I believe that we should take no undue risk of doing things, saying things and adopting resolutions here that would undermine the conviction of the governments and peoples of the countries of the world that this Organization is one that is in the world's interests, is in individual national interests, and should survive. Therefore it seems to me that Article 2, paragraph 7, is in the most simple and explicit terms.

112. The representative of the United Kingdom, who has spoken, had a major part in the discussions that led to the framing of Article 2, paragraph 7. It seems to me, as a layman—and not, by any means, as a lawyer—that this article is expressed in the simplest terms, terms that are habitually used by drafters of legislation in all countries. It seems to me that the terms that I used are the most simple and explicit that could be used. I do not need to repeat them. They are well in the minds of members of all delegations. It seems to me that in this case we must adopt the simple expedient of believing that words mean what they say.

113. We know what the original intention was: that the word "nothing" should override everything else in the Charter, that is to say, "nothing contained in the present Charter shall authorize the United Nations to intervene . . .". The word "intervene" means, certainly, not to adopt resolutions and not to be able to discuss the matter. So, for my country, I side very distinctly indeed with the Union of South Africa in this matter, that is, that it is beyond the competence of this Organization to discuss this matter and, flowing from that, that the item should not be included in our agenda.

114. My broad reasons for taking that attitude which, as I said, is not in the very least concerned with the merits of the case, are that I believe that there is nothing that could be more damaging to the prestige—and possibly the continuance with its present membership—of this Organization, than our intervention in matters that are the subject of domestic jurisdiction. The precedent that might flow from this, if we were to disagree with the proposal of the Union of South Africa, might broaden out over the years into something extremely dangerous. We all know how precedent creates precedent. One thing leads to another, and Heaven knows, if we were to take what I consider to be the wrong decision today, what matters might come within the purview of this body in the future. While nationalism remains, countries and parliaments are very jealous of their own prerogatives. I speak not only for my own country but also from some little knowledge of the attitude of mind of the governments of some other countries. While nationalism remains, peoples are extremely jealous of their ability to run their own affairs and resent intensely any other body, however distinguished, meddling in their affairs. That is how it would be interpreted, I think, in any country.

115. I suggest to the other representatives in the General Assembly to let their minds be exercised a little with the thought as to whether or not there are not matters within their own jurisdiction, within their own borders, that they would not like to have discussed at this General Assembly. I direct that question to countries of the extreme left, of the centre and of the right.

I venture to think that one has to let one's imagination go only a very little way until one reaches matters that are within our own jurisdiction and that we should resent intensely having discussed by any outside body.

116. I do not want to say very much more than that. I was greatly impressed by the matters that were referred to by the representative of the United Kingdom, who has had a long and continuing experience with our affairs right from the very beginning. I believe that we are on extremely dangerous ground because, as I said, I hope and believe that this great and world-wide—or almost world-wide—institution is sufficiently enshrined in the hearts and minds of the countries of the world to survive. But I believe that this is a matter of domestic jurisdiction, and in the very many facets that our imaginations can conjure up and that might flow and expand from this resolution, I believe, if it went what I believe would be the wrong way, that this institution would be fundamentally damaged. I believe—without using words of exaggeration—that the foundations of this institution would be attacked, and I believe myself that you cannot hack away at the foundations of any institution and expect that institution firmly to survive.

117. I align myself with the representative of the Government of the Union of South Africa in this instance and hope very much for the future of the United Nations that his motion will prevail.

118. Mr. AL-JAMALI (Iraq): The issue is of such great importance and significance that it cannot be minimized or set aside by issues concerning legalistic and routine procedural ways. The issue is of such international and human significance that it touches the very foundation of the Charter. We must not let small legalistic matters and arguments make us lose sight of its world-wide significance. We must not lose sight of the jungle because of a certain tree. We must look at the world as a whole and look at it as it stands. Whither are we moving? Are we moving towards unity, towards brotherhood and towards equality, or are we moving towards separation, segregation and discrimination?

119. We are united here; we are the United Nations. United by what? United by the principles of this Charter, from which emanates the Universal Declaration of Human Rights. We have all pledged ourselves to respect the principles and foundations of this Charter. If a friend of ours wishes to violate his pledge to the Charter, are we not entitled in a friendly way to call for a cessation of this violation? I think it is a most elementary right of a group of friends or members of a company to call each other's attention to the fundamental interests of the group.

120. Some representatives, including the representative of Australia, referred to the fact that we all have our problems and troubles. That is true. We all have our shortcomings. No State can claim to be perfect in the application of the principles of the Charter. That is quite understandable. But we must all decide to do our utmost to follow the principles of the Charter. To move in a reverse direction and to legislate against the Charter is something which certainly deserves the grave consideration of the Members of the United Nations. It is one thing to have shortcomings and weaknesses, but it is another thing to work for the perpetuation and augmenting of those shortcomings.

121. In the view of my delegation, the issue is not of a local character; it is a generic issue. If a nation were to legislate the practice of genocide, what would be our position? Should we have the right to intervene and tell that nation that it is violating human rights? If a nation passes legislation to persecute a certain group because of race or colour, are we entitled to tell that Member: let us work together according to the principles to which we have pledged ourselves? To us the issue of racial legislation is exactly of the same nature. It fundamentally touches human brotherhood, human equality and human relationships. Its effects are of such importance that they do not affect human relationships merely within the boundaries of one country. Even if it were to affect the boundaries of one country, we are entitled to call the attention of one of our Members to reconsider its practice. But this issue is of great international significance today. If we think of the world as a whole and of the trends and currents that are moving in the world today, we shall see how detrimental racial discrimination can be to international peace and unity. This is no time for racial superiority. This is no time for insistence on the superiority of the white man. We live in the age of human equality and human brotherhood.

122. We listened attentively to the argument presented by the representatives of the United Kingdom and Australia as to where this intervention will lead us. Are we intervening in the internal jurisdiction of a State? The view of my delegation is that as we move forward in the path of international co-operation and the creation of one world, the internal affairs of others will concern us more and more. Let us not be afraid of this trend of advising each other and of viewing each other's problems, especially when they affect us directly. There is no danger in having the United Nations increase its interest in studying and remedying the practices that are contrary to the Charter. The danger is on the other side. The danger lies in thwarting the United Nations, in barring freedom of discussion, and in permitting matters to go from bad to worse in the world. We are working to improve the world. If we mean well and if we have the principles of the Charter at heart, we must not be afraid to advise each other and learn from each other.

123. My delegation is quite disturbed by this tendency and argument with respect to interference in internal jurisdiction. We believe that when matters reach an international level and when many nations are concerned with an issue, it cannot be considered as an internal matter. We feel that this tendency is rather dangerous and would limit the effectiveness and use of the United Nations as an Organization which is leading the world towards progress and unity. In short, we feel that technicalities and legal points should not make us lose sight of the gravity of the issue.

124. The United Nations is directly concerned with the matter. It has dealt with the issue and it should deal with the issue. It should appeal and advise and admonish our brothers in the Union of South Africa to see to it that they follow a constructive and unifying policy.

125. It is no argument to say that if a Member does not accept our admonition, we should not advise him,

and that we should stop working and carrying out our responsibilities. This Organization will not lose prestige if a certain Member violates its recommendations or does not abide by them. On the contrary, it is that Member itself which loses prestige. This argument should be flatly rejected.

126. My delegation appeals to all the Members, including our friends from the Union of South Africa, to look into the matter together, to study it together and to reach a positive settlement based upon the principles and tenets of the Charter.

127. The PRESIDENT: Under rule 23 of the rules of procedure, the discussion on this question is now concluded. The General Assembly has before it a proposal introduced by the representative of the Union of South Africa under rule 80, which rule states that "any motion calling for a decision on the competence of the General Assembly to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question". Therefore we are now deciding on the question of competence and not at this stage—though I hope we shall immediately afterwards—on the question of inclusion or exclusion.

128. Under rule 40, the General Committee is charged with making recommendations to the General Assembly with regard to each item proposed. This particular item which has been proposed—and which therefore I assume is a proposal under rule 80—is item 66.

129. In that connexion the delegation of the Union of South Africa has moved the following *[A/L.108]*:

> "Having regard to the provisions of Article 2, paragraph 7, of the Charter, the General Assembly decides that it is not competent to consider the item entitled 'The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa'."

The vote will be taken on the South African proposal.

130. I call on the representative of Chile on a point of order.

131. Mr. SANTA CRUZ (Chile) *(translated from Spanish)*: I seriously doubt whether the proposal of the representative of the Union of South Africa can be put to the vote. It is correct that rule 80 of the rules of procedure states that "any motion calling for a decision on the competence of the General Assembly to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question". But rule 80 refers to proposals submitted concerning an item which is already on the agenda. Before the question of competence can be discussed, the matter must be on the agenda; otherwise, how can the Assembly discuss it? The question of competence is part of the discussion of the item. I believe that we cannot now discuss competence, but that we must first decide whether to include this item in the agenda, and then the matter of competence can be raised in committee before any other. Moreover, I believe this has been the general practice in all United Nations organs.

132. The PRESIDENT: In reply to the representative of Chile, I wish to state that I have given consideration to that aspect of the question. However, in order to bring this question to an issue, I shall make a ruling and then the Assembly can decide whether it is a good or a bad ruling. My ruling, of course, can be challenged and reversed.

133. My ruling is based on an interpretation of rule 80 which is somewhat different from that of the representative of Chile. As I understand rule 80, it refers to "any motion calling for a decision on the competence of the General Assembly to adopt a proposal submitted to it . . .", that is, a proposal submitted to the General Assembly. Rule 40 of our rules of procedure deals with the functions of the General Committee, and I shall quote the first part of rule 40:

> "The General Committee shall, at the beginning of each session, consider the provisional agenda, together with the supplementary list, and shall make recommendations to the General Assembly with regard to each item proposed . . ."

It states, "with regard to each item proposed".

134. The General Committee, as I understand it, has made a recommendation to the General Assembly with regard to the inclusion of item 66 of the provisional agenda. I have interpreted that recommendation, under rule 40, as a proposal. It is a proposal by the General Committee for the inclusion of an item in the agenda. Under rule 80 of our rules of procedure, the delegation of the Union of South Africa has challenged the competence of the General Assembly to adopt that proposal. I have ruled that the delegation of the Union of South Africa is in order in making its proposal on competence.

135. Should any delegation wish to challenge this ruling of the Chair, that would probably be the quickest way of dealing with the question. Such a challenge, in accordance with the rules, would be put to the vote immediately.

136. Mr. PADILLA NERVO (Mexico) *(translated from Spanish)*: I regret that I cannot concur with the opinion the President has just expressed. I agree with the position stated by the Chilean representative. I believe that the question which the President put to the Assembly a moment ago was not that of competence, but whether or not the item to which we are referring should be placed on the agenda. The rule invoked by the President was rule 23, which provides that "debate on the inclusion of an item in the agenda, when that item has been recommended for inclusion by the General Committee, shall be limited to three speakers in favour of and three against the inclusion". Accordingly, the President limited debate to three speakers; but surely, if what we are discussing is the question of competence, all the representatives here in the Assembly at this moment have the right to speak on that point. If we have that right, then why was the debate limited to three speakers in favour and three against? It was in fact limited, obviously, because we were not discussing competence but the inclusion of the item. Therefore I do not consider that it would be appropriate for this question to be decided by a ruling of the President. I think that we should vote on the inclusion of this item in the agenda. The proposal made by the representative of the Union of South Africa is actually a proposal against the inclusion of this item; and it is on that question that we should vote.

137. The PRESIDENT: The President is naturally disconcerted by a challenge on the part of the former President. If the representative of Mexico will recall correctly, or if he will refer to the verbatim record which will appear shortly, he will find that in my remarks at the beginning of the meeting I said that we were considering the question of admissibility and competence in relation to rule 23, which limits the number of speakers. That is what I said, whether I was right or wrong. It was my understanding that any questions concerning the agenda, the admissibility of an item, its inclusion or exclusion, the competence to discuss it, were all subject to rule 23 of our rules of procedure.

138. However, I understand the difference of opinion that has been expressed in this matter and I suggest, with all respect to the Assembly, that the quickest way to resolve that difference would be to vote at once on the President's ruling. If that ruling should not be upheld, then we should vote on the question of the inclusion or exclusion of the item. The question of competence would be postponed.

139. I call on the representative of the Soviet Union on a point of order.

140. Mr. VYSHINSKY (Union of Soviet Socialist Republics) *(translated from Russian):* For the second time, we are confronted with what can only be regarded as an attempt by the President to usurp the powers of the General Assembly. The USSR delegation considers that such a beginning of the General Assembly's work is not an encouraging omen. There is nothing encouraging, either, in the attempts to misinterpret completely rules of procedure which hitherto have never aroused any doubt in any person in any circumstances.

141. Indeed, it is absolutely unprecedented to consider the question of whether an item should be included in the agenda or not from the point of view of the General Assembly's competence. Legally, this is simply nonsense. It shows either complete misunderstanding of, or deliberate contempt for, the good sense of all the representatives present here.

142. We are quite well able to distinguish between the question of the General Assembly's competence and the question of including an item in the agenda on the General Committee's recommendation. I fully associate myself with the views expressed here by Mr. Padilla Nervo, not because he is the former President, or because his opinion differs from that of the present President or because the time may come when I shall be President, but simply because what Mr. Padilla Nervo said is quite in accordance with the Charter, whereas the view which the President is advocating is a crude violation of the Charter.

143. I would point out that we are now discussing the General Committee's proposals and nothing else. Only when the time comes to discuss the substance of any given item can the question of the General Assembly's competence be raised.

144. The reference to rule 80 of the rules of procedure is therefore absolutely unconvincing. On the contrary, rule 40 of the rules of procedure—I shall not refer to rule 23, because the President may have made a mistake when he implied that we are now discussing a question in respect of which the time and number of speakers can be limited—makes it absolutely clear that the question is merely one of a request for the inclusion of an item in the agenda. I therefore appeal to the General Assembly to decide that the President's ruling is invalid.

145. The PRESIDENT: I shall now put my ruling to the General Assembly, because under rule 72 of the rules of procedure, that must be immediately put to the vote.

146. Mr. KHALIDY (Iraq) *(from the floor):* A point of order.

147. The PRESIDENT: There can be no point of order once a question has been put to the vote.

148. Mr. AL-JAMALI (Iraq) *(from the floor):* Will the President restate his ruling?

149. The PRESIDENT: If the President's ruling is not upheld, representatives will be given an opportunity to explain their votes on the question of the inclusion or deletion of this item. That can be done under the rules. Meanwhile, I have called for a vote, as I must under the rules which we are trying to uphold.

150. I have been asked to restate my ruling again so that representatives will be quite clear on what they are voting. My ruling was that it was in order for the representative of the Union of South Africa to introduce, under rule 80, a proposal regarding the competence of the General Assembly to deal with this particular recommendation from the General Committee. Therefore, under rule 80, that proposal regarding the competence of the General Assembly should be put to the General Assembly before the question of the inclusion or non-inclusion of this item in the agenda. A roll-call vote has been requested.

A vote was taken by roll-call.

The Union of South Africa, having been drawn by lot by the President, was called upon to vote first.

In favour: Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Canada, France, Luxembourg, Netherlands, New Zealand.

Against: Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia, Afghanistan, Argentina, Bolivia, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Costa Rica, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, India, Indonesia, Iran, Iraq, Lebanon, Liberia, Mexico, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic.

Abstaining: Brazil, Cuba, Dominican Republic, Greece, Iceland, Israel, Nicaragua, Turkey.

The ruling of the President was reversed by 41 votes to 10, with 8 abstentions.

151. The PRESIDENT: The question now before the General Assembly is the inclusion of this item in or its deletion from the provisional agenda as it appears in the report of the General Committee, where it is recommended for inclusion. I would suggest to the General Assembly that we have had a fairly wide

debate on this matter and that we might put the question to the General Assembly at once.

152. Mr. JOOSTE (Union of South Africa): I am sorry that I have to intervene again. If I may say so, both the President and I seem to have been the victims of circumstances. It will be recalled that when I originally moved my proposal, I moved it in the clearest possible language. I asked whether it was permitted, and said that if it was permitted I would continue with my argument. The President admitted it and that was the time when, if anybody wanted to challenge it, he should have done so, but to do so after it had been admitted and after all of us had spoken, surely is, to say the least, unfair. However, as I have said, the only pleasure that I derive from it is that I am travelling in good company, since the President and I are on the same side. That is no reflection on anybody else.

153. The question which the President is now going to put is the inclusion of the item. I am not going to argue on that point. I maintain that the arguments I advanced this morning were conclusive, and the Organization is not competent to deal with it and is not competent even to discuss the matter. If this Organization is precluded by the specific provision of the Charter from discussing it, there can be no point in including it in the agenda. I therefore ask that it should be excluded.

154. Mr. KHALIDY (Iraq): I would begin by asking the President this question: did it really please him to find his ruling reversed so overwhelmingly? It was a very unfortunate way to handle a matter like this. I cannot instruct the President on procedure, as he is an old hand at it, but I would say that the explanation on the ruling that the President gave, of the interpretation itself, stands in dire need of interpretation. The President spoke of an "item proposed". Let me point out to the President that there is a technical difference between a "proposal" and an "item proposed". I shall explain it very briefly. Technically, in the rules of procedure, a proposal is a motion, and we know exactly what is meant by a motion in a gathering like this. We are all governed by rules of procedure and must abide by them. May I submit in passing that the presiding officer is the first officer charged with carrying out the rules of procedure. An "item proposed" is an item suggested. It has no technical import or meaning like a proposal. My delegation therefore could not possibly agree with the President upon the meaning he put on the words "proposal" and "proposed".

155. With all respect to the President, we are strongly of the opinion that the Chair cannot make a ruling on a matter like this, for the simple reason that competence is the prerogative of the Assembly. One man cannot make a ruling. We strongly hope that neither the President nor any officer concerned will at the very beginning of our proceedings, in the course of which we shall take up problems that are world-wide, take advantage of his powers and do things like that.

156. The item before the Assembly is the question of inclusion. What must be decided now is whether or not to include the item in the agenda. The question of competence should come up when the discussion is started in committee or in the Assembly. However, as the delegation of Chile has explained, we cannot decide on competence if we have not decided to discuss the question. I think that the situation is very clear and that I need not say another word.

157. The PRESIDENT: The President, of course, is always glad to take advice from fellow representatives on interpretation of the rules of procedure. In so far as this particular episode is concerned, it is unfortunate that if the representative of Iraq felt so strongly about the proposal under rule 80, he did not make it clear before the discussion proceeded under that rule, as was explained by the representative of the Union of South Africa.

158. Mr. TSIANG (China): I should like to explain the vote which my delegation has just cast and also the other vote which my delegation is about to cast on the inclusion or not of this item. We have just voted on the ruling of the President, and my delegation voted against the President. The President invoked rule 80. In that we thought that the President was right. Indeed, the representative of the Union of South Africa, in the meeting of the General Committee [*79th meeting*], reserved his right to raise the question of competence. I do not think the Assembly has the right to deny the representative of South Africa his right to raise that question or to have it put to a vote, and on that part of it I thought the President was correct. Unfortunately, in applying rule 80 he mixed it with rule 23. In rule 23 you do have limitation of debate while in rule 80 there is no limitation of debate. Thus, my delegation found that we had no way to demonstrate our position on this question except by voting against that ruling.

159. We are now about to vote on the inclusion or exclusion of item 66. My delegation will vote for the inclusion of this item. By voting for the inclusion of that item we do not mean that we have made up our minds in regard to the merits of the question. Of course, the merits of the question will be decided during the course of the debate in committee. That goes without saying. What I wish to make clear at this point is that only a thorough debate could decide the question of competence, and I should like to state further that my delegation does not regard the question of competence in absolute terms. The Assembly may be competent in some respects and not in others. It may be competent to a certain degree and not competent to go beyond that degree. All these questions of competence remain to be decided to the course of the debate in committee. It is in that sense that my delegation will vote for the inclusion of this item in our agenda.

160. The PRESIDENT: One or two representatives have signified their desire to explain their votes, but that can be done apart from rule 23. Does any representative wish to speak on the substance of the matter, for or against?

161. Mr. DE SOUZA GOMES (Brazil): I wish to state very briefly my reasons for voting in favour of the inclusion of this item in the agenda of the present session of the General Assembly.

162. The paramount consideration in the mind of my delegation is that certain Member States have requested the inclusion of the item and, in an explanatory memorandum, have presented the problem as one whose aggravation may present a tangible danger to international peace and security. We cannot, therefore, escape the conclusion that we should not dismiss the matter

altogether by simply rejecting the inclusion of the item. The very fact that thirteen Member States had their attention called to the problem and that they maintain, rightly or wrongly, that it is related to international peace and security, is in itself a circumstance of such an important nature as to deserve the close attention and consideration of the General Assembly.

163. I wish to make it quite clear that my vote in favour of the inclusion of this item is not to be construed as in any way prejudging the question of the competence of the General Assembly to make recommendations on certain aspects of the matter which might very well fall under the limitation of Article 2, paragraph 7, of the United Nations Charter, which precludes action by the Organization on matters relating to the domestic jurisdiction of Member States.

164. Our position on this matter is that, since the question of competence is not entirely clear to us from a *prima facie* consideration, we should keep an open mind and should not deny thirteen Member States the opportunity to present their case and their views. With all due reservation on this matter of competence and on the merits of the question, we feel that in this case, as in some others having similar characteristics, the General Assembly, as the most representative body of the United Nations and as a forum for the free exchange of views of Members States, should not assume a negative role from the start.

165. We may eventually feel that some matters do really fall outside our competence, which finds its limitation in the stipulation of Article 2, paragraph 7. The necessity of clearing up this point of competence and certain aspects of the merits of the question is precisely one of the reasons which prompt us to vote in favour of inclusion. It also explains why we do not favour a *prima facie* decision on competence at this early stage of our proceedings. Only after it has heard the parties concerned, will the *Ad Hoc* Political Committee be in a position to take a decision on competence, a question which is not yet entirely clear to the majority of delegations.

166. The PRESIDENT: Three representatives have now spoken in favour of inclusion. Does any other representative wish to exercise his right to speak against? If not, we shall proceed to vote.

167. Since no other representative wishes to speak, I shall put to the Assembly the question as whether this item should be included in the agenda in accordance with the recommendation of the General Committee. A roll-call vote has been requested.

A vote was taken by roll-call.

Iraq, having been drawn by lot by the President, was called upon to vote first.

In favour: Iraq, Israel, Lebanon, Liberia, Mexico, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yemen, Yugoslavia, Afghanistan, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, Iceland, India, Indonesia, Iran.

Against: New Zealand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, Australia, Colombia, France,

Abstaining: Luxembourg, Netherlands, Nicaragua, Turkey, Argentina, Belgium, Canada, Dominican Republic.

Item 66 was placed on the agenda by 45 votes to 6, with 8 abstentions.

168. The PRESIDENT: I call upon the representative of the United Kingdom for an explanation of vote.

169. Sir Gladwyn JEBB (United Kingdom): I shall be very brief, but I must allude to the fact that when this matter was debated in the General Committee, the leader of my delegation spoke as follows:

> "I should like to say with regard to this item that if it is sent forward for inclusion in the agenda of the Assembly, this is without prejudice to the question of the competence of the Assembly to consider it and to the right of any delegation to raise that question subsequently. It is the view of my Government that the item is one which the Assembly is not, in fact, competent to discuss because the issues which it involves come essentially within the domestic jurisdiction of the Union of South Africa and are, consequently, excluded from consideration by the United Nations by virtue of Article 2, paragraph 7. I must, therefore, reserve the right on behalf of my delegation to raise the question of competence at the appropriate time and place."

170. We had thought—wrongly as it turned out—that the appropriate place and time to discuss the question of competence was here and now, and for that reason I did make quite a detailed statement of our views on the matter of competence. Having made our view so clear—that is to say, our view that it could do nothing but harm for this item even to be discussed by the General Assembly—and having, in effect, participated in what was a small and, as it turned out, preliminary debate on the question of competence, it would, I suggest, have been entirely illogical for us to have taken any course other than to vote as we did vote, namely, against the inclusion of this item in the agenda. And that is the reason we did so.

The meeting rose at 1.20 p.m.

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